

MATTER OF HERRERA

In Visa Petition Proceedings

A-19086022

*Decided by Board September 13, 1971*

- (1) For the purpose of establishing U.S. citizenship in visa petition proceedings, petitioner's delayed Texas birth certificate, standing alone, does not amount to a "birth certificate" within the contemplation of 8 CFR 204.2(a)(1). Even though petitioner's delayed birth certificate may be treated as *prima facie* evidence of the facts it relates, those facts have been rebutted by contradictory documentary evidence in the form of the 1910 census record. Further, the delayed certificate was issued on the basis of affidavits of 2 persons, one of whom was only 3 years old at time of petitioner's alleged birth and therefore, unlikely to have personal knowledge of the facts of birth; the basis of knowledge of the other affiant is not reflected.
- (2) Since the 2 baptismal records submitted by petitioner in support of his visa petition to accord his wife immediate relative status relate to a baptism which took place more than 2 months after birth, they do not satisfy the documentary requirement of 8 CFR 204.2(a)(1).

ON BEHALF OF PETITIONER: Pro se

The petitioner filed a petition to obtain immediate relative status for his spouse under section 201(b) of the Immigration and Nationality Act. The District Director denied the application in an order dated January 19, 1971 on the ground that the petitioner was not a United States citizen. The petitioner appealed from that order. This Board, in our order dated March 19, 1971, remanded the matter for the reception of additional evidence and to obtain translations of evidence already in the record.

After receiving additional evidence and securing the translations referred to, the District Director again denied the petition for the same reason as before. The District Director certified the matter to this Board pursuant to our order of March 19, 1971, in which we directed certification in the event the petition were denied, since we had made no ruling on the merits of the appeal. We will affirm the order of the District Director.